

Public Guardian and Conservator Advisory Board Meeting
Department for Aging and Rehabilitative Services
Virginia Division for the Aging
1610 Forest Avenue, Suite 100
Henrico, VA 23229
September 10, 2015 10:00 a.m. – 1:30 p.m.

Meeting Minutes

Members Present

Lisa Moore, Naila Alam, James Almand, Paul Izzo, George McAndrews, Rose Palmer, Cathy Thompson, Angie Phelon (for Thelma Bland Watson), Mira Signer, Carrie Ottoson for Debbie Smith, Cathy Thompson, Lynne Williams, Veronica Williams

Members Absent

Lisa Linthicum, James Talbert

DARS/Virginia Division for the Aging Staff

Robert Brink, Deputy Commissioner
Amy Marschean, Senior Policy Analyst
Cecily Slasor, Administrative Assistant
Janet James, Esq., Public Guardian Program Director

Guests

Carrie Ottoson, for Debbie Smith, DBHDS
Dr. Pamela Teaster, VA Tech
Paul DeLosh, VA Supreme Court
Charlotte Bowen, JFS-Richmond
Donna Sutton, JFS-Richmond

Welcome and Introductions

Chair Lisa Moore called the meeting to order at 10:00 a.m., welcomed members and guests, and asked them to introduce themselves. She also noted it was World Suicide Prevention Day.

Review/Approval of March 26, 2015 Meeting Minutes

Chair Moore asked if members had reviewed the March meeting minutes and if there were any corrections. Rose Palmer made a motion to approve the minutes and Judge Almand seconded the motion. Members voted unanimously to adopt the meeting minutes.

Deputy Commissioner's Report

Deputy Commissioner Brink thanked all members for their service on the board and the important work that they do. Deputy Brink reported that he completed his visits to all 25 AAAs by his first anniversary with DARS. On July 13, the White House Conference on Aging was held in Washington DC. That week also marked the 50th anniversary of the Older Americans Act (OAA). Reauthorization of the OAA passed in the Senate and it is awaiting approval in the House. As part of the OAA anniversary, Deputy Brink and Senior Connections Director Dr. Thelma Watson made several television appearances to discuss the OAA and aging services.

On September 9, Commissioner Rothrock and Deputy Brink presented to the Joint Commission on Health Care (JCHC). They provided an update on the Public Guardian Program, showing a new map of programs in VA reflecting for the first time statewide coverage. The presentation was very well received and Deputy Brink thanked all the members who supported the increased funding for the program.

On May 2, 2016, the Governor's Conference on Aging will be held in Richmond. Programs are currently being developed. The last Governor's Conference was held in 2003 so there have been many changes demographically.

Deputy Brink told members that a few weeks ago, the Governor asked him to come on full-time as Senior Legislative Advisor. It was a bittersweet decision as he has enjoyed his time at DARS so much, but also a tremendous opportunity to serve the Governor.

Ms. Signer asked what questions the legislators in the JCHC had yesterday since that sometimes gives you an idea of what issues are important to them. Deputy Brink said that there were few questions about Public Guardianship, but a number of questions related to Care Transitions and the Chronic Disease Self Management Education (CDSME) program. Ms. Marschean said there is a good understanding of what the Public Guardian programs are doing amongst the JCHC and the message about the unmet need was received.

Ms. Palmer questioned whether the JCHC discussed assistance for mental health needs. She is seeing a need amongst her indigent client-base. Lynne Williams noted a recent survey showed 48% of ALF residents have MH issues. Chair Moore noted there is a trend at the federal level to merge chronic health care with behavioral health issues in order to treat the whole person.

Virginia Public Guardian and Conservator Program (Handout)

Janet James, Director

Mrs. James shared copies of the current map of Virginia showing statewide coverage for Public Guardianship. For years so many areas have been unserved and *underserved*, so this is very exciting to share.

- Chesapeake DSS elected not to renew their PG program contract. DARS contracted for \$60,109 and their local government had to supplement that. The costs proved to be too much. All 18 of the Circuit Court orders were transferred to Jewish Family Services of Tidewater. Deputy Brink sent a letter of thanks to the Chesapeake City Attorney and his staff on the exemplary job that was done in helping to transfer these clients and the court orders. Transferring court orders may become more of an issue as people transition out of state hospitals and training centers.
- Last year, SW VA Legal Aid elected not to renew their contract as they were also supplementing their funding and determined they could no longer do so. It was not as smooth a transition as with Chesapeake DSS. A great deal of work had to be done to work through the situation.
- Ms. James discussed a handout from a presentation provided last year entitled, "Help! My Grandma has Outlived All of her Family and Needs a Legal Decision-Maker." Mrs. James stressed the importance of pro-active education about guardianship and alternatives to guardianship now, before the demand is huge. By the year 2025, she predicts we could be facing a real crisis if we don't start the education now. Supported decision-making is a popular alternative. Ms. Marschean mentioned one of the goals of the Four Year Plan for Aging Services end-of-life decision-making, such as having advance directives. Care Transitions program staff are utilizing advance directives and

other planning in their interactions with patients. We need to be pro-active and make this a subject that people are comfortable discussing.

Chair Moore wondered if there is a role in the PG programs to provide this type of education, documents. Ms. Marschean will disseminate the information to PG board members. Ms. Palmer said she frequently receives requests to speak about the subject or to represent someone.

Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) Initiative

Paul DeLosh, Director of Judicial Services

Virginia Supreme Court

Mr. DeLosh thanked the board members for inviting him for a second time. He worked on the National Association for Court Management guide for guardianships (shared at a previous meeting) and took a personal interest in the subject. In his position with the court, he has worked on probate matters and petitions for guardianship and he wanted to learn more about the process. He received funding from the Institute for Court Management Fellows Program to write "An Evaluation of Virginia Adult Guardianship/Conservatorship Process." As part of his research, he learned the number of guardians appointed in 2013 was 168. This didn't seem like an accurate number and he discovered there is no uniform coding for guardianship. There are 120 circuit courts and 118 use a case management system. Two circuit courts (Fairfax and Alexandria) use their own system. There is a need for data on the number of guardianships, as well as *who* is petitioning for guardianship. Training of clerks began on July 1, 2015 and will hopefully lead to more accurate guardianship data, including better tracking of number of petitions filed.

It was reported that some DSS offices review the annual guardian reports and some do not.

Mr. DeLosh encouraged members to visit <https://nacmnet.org/> to see the guide https://nacmnet.org/sites/default/files/publications/AdultGuardianshipGuide_withCover.pdf and the webinar <https://vimeo.com/ncsc/review/138121427/c14015c5fc>.

The webinar includes a discussion by Phillip Marshall, grandson of philanthropist Brooke Astor. Mr. Marshall gained fame by writing about his father's financial exploitation of his grandmother. His father was convicted and jailed for the crimes. Mr. Marshall was very complimentary of the guide.

Mr. DeLosh discussed the Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) initiative:

- WINGS is "a court-community partnership to improve practices in adult guardianship and provide less restrictive decision-making options."
- Creation of WINGS by all states was a core recommendation of the 2011 Third National Guardianship Summit.
- To promote the program, an RFP was issued for incentive grants and technical assistance to the highest court in each state. Four WINGS pilot states were chosen: New York, Oregon, Texas, and Utah. Ohio and Missouri had problem-solving groups. Ohio had an interdisciplinary Subcommittee on Adult Guardianship and Missouri's Developmental Disabilities Council convened a task force.
- The National Guardianship Network is urging states to develop WINGS groups for ongoing assessment of adult guardianship. The initiative aims to improve guardianship trends and the lives of vulnerable people

- Additional resources on adult guardianship are available from the NCSC Center for Elders and the Courts at <http://www.eldersandcourts.org/Guardianship.aspx>

Mr. DeLosh commented that the Executive Secretary of the Supreme Court received a letter from the DARS Commissioner in July 2015 requesting a WINGS initiative in Virginia and that he and Mr. Hade will be meeting with the Chief Justice about it. Other stakeholders suggested by advisory board members not included in the list in the Commissioner's letter that need to be added are the Local Government Attorneys and the Virginia Association of Elder Law Attorneys.

Working Lunch: Research Entity Evaluation of Public Guardian Program pursuant to Virginia Code 51.5-150 (B)(9) (Handout)

Dr. Teaster introduced herself and spoke about her time in VA and her experience with public guardianship. She has returned to VA after 12 years away and asked members to introduce themselves so she could understand who is currently on the board.

2007 recommendations:

- Included funding programs to meet the needs of 1,441 individuals currently in need of guardianship and conservator services.
- Enhance funding steadily so individual programs can serve the projected increase in clients.
- Increase funding so Public Guardian Programs have statewide coverage.
- Create mechanisms so court costs for indigent clients can be waived or substantially reduced.
- Identify ways to cover the cost of the petitioning process for families.
- Encourage agencies to keep a referral or waiting list as a means of starting to document the need for public guardianship/conservator services.

Conclusions:

- All states now have some form of public guardianship.
- Most states use conflict of interest model.
- A problem exists with the concept of guardianship as *public*.
- Many programs serve as guardian of the person and property.
- Wide variability exists in terms of educating the public.
- There are (often unrecognized) conflict of interest problems with petitioning.
- Court costs are a significant barrier.
- Variability in size of program staff.
- Frequently understaffed and under-funded.
- Few caps on numbers.
- Funding from a patchwork of sources.

Conclusions: Due Process & Other Reforms

- Little data still exists.
- Limited guardianship is STILL rarely used.
- Guardian *ad litem* system is generally an impediment to providing effective services.

- Uneven or minimal oversight once guardianships are instituted.
- Litigation an important strategy to use to strengthen programs.

Recommendations

- Individuals served – adequate funding for home & community-based care
- Outcome study on wards

-Program Functions

- Standardized forms and reporting instruments.
- Limit functions to greatest needs.
- Minimum standards of practice.
- Not petition.
- Multidisciplinary screening committees.
- Track cost savings to state.
- Periodic external evaluation.

-Funding and Staffing of Programs

- Adequate funding.
- Explore approaches to use of Medicaid
- Capped at specific staff-to-ward ratios

-Public Guardianship as part of state guardianship

- Collection of uniform and consistent data
- Increased court oversight
- Increased use of limited orders
- Waive costs & filing fees for indigent wards
- Examine Guardian *ad litem* implementation
- Explore implementation of the Uniform Veterans Guardianship Act

VA is the *only* state that requires guardians to submit the Values History form.

Biennial Report of the Public Guardian and Conservator Advisory Board

Action: Approve

Amy Marschean, J.D., Senior Policy Analyst

Ms. Marschean reviewed the draft biennial report. It includes discussion of a housekeeping bill to move the PGCAB statute from Title 2.2 to Title 51.5 in the Code of Virginia and to have the membership reflect the dissolution of the VA Guardianship Association. In addition, the report addresses a Virginia WINGS initiative and request for funding for a program evaluation as mandated by Virginia Code 51.5-150 (B)(9). Judge Almand moved that the board approve the annual report and move it along the Commissioner. George McAndrews seconded the motion. Members voted unanimously to approve and submit the report to the Commissioner.

Public Comment

Lisa Moore

There were no public comments received.

New Business

Lisa Moore

Chair Lisa Moore asked if there was any new business. There was no new business.

Meeting Adjournment

Future Meeting Dates

The next meeting will be held on November 19, 2015

2016 Meeting Calendar: Ms. Marschean told members about the plan to have a meeting of all three boards the night before the Governor's Conference on Aging on May 1, 2016.

Chair Lisa Moore asked for a motion to adjourn the meeting. George McAndrews made the motion and Paul Izzo seconded. The meeting adjourned at 1:15 pm.